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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,328	12/19/2001	Hiroshi Amano	10991002-4	3038

7590 05/08/2003
AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

EXAMINER

NGUYEN, DUNG T

ART UNIT PAPER NUMBER

2828

DATE MAILED: 05/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,328

Applicant(s)

AMANO ET AL.

Examiner

Dung (Michael) T Nguyen

Art Unit

2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.



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Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 and 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "substrate structure" (claim 7) and the "gradient sub-layer" (claims 12-13) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 14, it is not clear as what a portion of a nitride semiconductor layer structure according to any one of the previous claims is included in the claim.

The remaining claim is dependent on the above rejected claim and therefore is also rejected.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Takeuchi et al. (US2001/0038656 based on Foreign Application Priority Data dated March 16, 1998).

With respect to claims 1-4, 10-11, and 14, Takeuchi show in Fig.8 a nitride semiconductor layer structure comprising a buffer layer 30, a first sub-layer 31, a second sub-layer 24 wherein the AlN molar fraction being at least 10% of the second sub-layer is greater than the AlN molar fraction being at least 5% of the first sub-layer (page 3, para.0033, l. 7-8, and para.0034, l. 1-3), an optical waveguide layer 25, an active layer 26, a first additional sub-layer 28, and a second additional sub-layer 33.

With respect to claim 5, Takeuchi disclose a sapphire substrate (page 1, para.0005, l.10).

With respect to claim 6, Takeuchi disclose a SiC substrate (page 1, para.0005, l.10).

With respect to claim 7, Takeuchi show in Fig.8 a substrate 21, a layer of GaN 23, and a layer 30 sandwiched between the substrate 21 and the layer of GaN 23.

Art Unit: 2828

With respect to claim 8, Takeuchi disclose the buffer layer and the composite layer are doped with the same dopant (page 3, para.0029, l. 1-2).

With respect to claim 9, Takeuchi disclose the buffer layer having a thickness less than 100nm, the buffer layer $\text{Al}_{1-y}\text{Ga}_y\text{N}$ ($0 < y < 1$), the composite layer $\text{Al}_{1-x}\text{Ga}_x\text{N}$, and the second sub-layer is at least 600 nm (claim 16).

With respect to claim 15, Takeuchi disclose the second sub-layer has a thickness and the second AlN molar fraction has a value at which the laser generates light having a far field pattern that exhibits a single peak (page 3, para.0033).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takeuchi et al. (US2001/0038656 based on Foreign Application Priority Data dated March 16, 1998) in view of Shieh et al. (US5530715). Takeuchi disclose all limitations of the claims except for a gradient layer. Shieh teach a gradient layer (Abstract, l.4). For the benefit of a semiconductor layer

Art Unit: 2828

structure, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Takeuchi a gradient layer as taught by Shieh.

Citation of The Pertinent References

The following US patents are being made of record, even though they were not relied upon in this Office action, for being similar in subject matter, and may be relied upon in any future Office Actions: 6324200 and US2002/0137249.

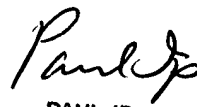
Communication Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung (Michael) T Nguyen whose telephone number is (703) 305-7159. The examiner can normally be reached on 8:30 - 17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip can be reached on (703) 308-3098. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-5511 for regular communications and (703) 306-5511 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3329.

Nguyen (Michael) Dung
April 21, 2003


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